

Section __. Full Reimbursement of the Affordable Care Act Annual Fee

Section 9010 of the Patient Protection and Affordable Care Act, as amended by Section 10905 of the same Act, and as further amended by Section 1406 of the Health Care and Education Reconciliation Act of 2010 (collectively, the “ACA”), imposes an annual fee on covered entities engaged in the business of providing health insurance for United States health risks (the “Annual Fee”). Commencing in calendar year 2014, the Annual Fee is required to be paid no later than September 30th (as applicable to each relevant year, the “Fee Year”) with respect to premiums paid to the covered entity in the preceding calendar year of 2013 (as applicable to each relevant year, the “Data Year”), and continuing similarly in each successive year. In order to satisfy actuarial soundness requirements with respect to amounts paid under the Contract [as defined above in relevant State Contract], the parties agree that the State shall reimburse the Contractor [as defined above] for the full amount of the Annual Fee allocable to the Contract, as follows:

No later than September 15th of each applicable Fee Year, the State shall reimburse the Contractor for that portion of the Annual Fee (the “[State] Allocable Annual Fee”) that is attributable to those premiums paid to the Contractor under the Contract in the applicable Data Year (the “[State] Premiums”).

Further, by that same date, the State shall pay to the Contractor an additional cash payment (the “Gross-Up Payment”) equal to an amount such that, after payment by the Contractor of all federal and state taxes, interest, penalties, and costs imposed with respect to the Gross-Up Payment (including, without limitation, the relevant incremental amount of the [State] Allocable Annual Fee), the Contractor retains an amount of the Gross-Up Payment that is equal to the amount of the [State] Allocable Annual Fee. This provision is intended to put the Contractor in the same position as the Contractor would have been in had no [State] Allocable Annual Fee been imposed upon the Contractor.

This provision shall survive the termination of the Contract.